

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

EMANUEL G. REED,

Petitioner,

Case No. 05-C-395

v.

DANIEL BENIK, Warden,

Respondent.

OPINION AND ORDER

The court ORDERS that the Petitioner's "Motion for Reconsideration of the June 28, 2005, Order Dismissing Petitioner's Petition for Writ of Habeas Corpus With Prejudice and Motion for Certification of the Issues to the 7th Circuit Court of Appeals" (filed July 7, 2005) IS DENIED. The Petitioner has shown no legal or factual basis for reconsideration. The Petitioner's action is untimely and he has established no grounds for equitable tolling of the limitation period found in 28 U.S.C. § 2244(d)(1)(A).

IT IS FURTHER ORDERED that the Petitioner's request for a certificate of appealability IS DENIED. See 28 U.S.C. § 2253(c). It appears that his grounds for appeal include both constitutional and procedural issues. Under these circumstances a certificate of appealability is appropriate only if the petitioner shows that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. See Slack v. McDaniell, 529 U.S. 473,

484 (2000). In this case, the court concludes that the Petitioner has not raised a substantial constitutional issue and that jurists of reason would not find it debatable that his Petition was untimely filed. See generally Anderson v. Litscher, 281 F.3d 672 (7th Cir. 2002).

Done and Ordered in Chambers at the United States Courthouse,
Milwaukee, Wisconsin, this 12th day of July, 2005.

s/ Thomas J. Curran
Thomas J. Curran
United States District Judge